



**In re PIK (A person Suffering from Mental Disorder) (Miscellaneous Case 65 of 2017) [2025] KEHC 18948 (KLR) (Family) (16 December 2025) (Ruling)**

Neutral citation: [2025] KEHC 18948 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

**FAMILY**

**MISCELLANEOUS CASE 65 OF 2017**

**CJ KENDAGOR, J**

**DECEMBER 16, 2025**

**IN THE MATTER OF AN APPLICATION FOR CUSTODY,  
MANAGEMENT AND APPOINTMENT OF A GUARDIAN**

**AND**

**IN THE MATTER OF MENTAL HEALTH ACT, CAP. 248 OF THE LAWS OF KENYA**

**AND**

**IN THE MATTER OF PIK (A PERSON SUFFERING FROM MENTAL DISORDER)**

**IN THE MATTER OF**

**NK ..... 1<sup>ST</sup> PETITIONER**

**KWI ..... 2<sup>ND</sup> PETITIONER**

**RULING**

1. This matter comes before me, pursuant to an application for review of the orders issued on 9<sup>th</sup> November, 2017 appointing Newton Kamau as guardian and manager of the estate of PIK, a patient under the *Mental Health Act*.
2. The application is brought by KWI, the biological son of the patient. The Applicant seeks review and appointment as the patient's new guardian. He stated that at the time the guardianship orders were made, he was a minor and further cited his ability to care for his father and manage his affairs. The Applicant also criticises the Respondent for failing to act in the patient's best interests by allowing him to live in deplorable conditions, and for misusing the patient's funds by accessing his accounts and withdrawing money for personal use rather than for the patient's benefit.



3. The Respondent, on the other hand, has denied the allegations and maintained that he has acted in the best interest of the subject. The Respondent has also argued that the Applicant is not a suitable caregiver and that it will take time for the Applicant to learn the patient's routine and to adapt to the patient's lifestyle and needs.
4. I have considered the application and the supporting affidavit, as well as the response by the Respondent and submissions thereof.
5. The issue for determination is whether the Applicant has made out a good case for the grant of the orders sought.
6. The Applicant gave a genesis of how the patient's medical condition came about, he has been the guardian for about 8 years now.
7. I have noted that at the time the guardianship orders were made, the Respondent indicated that the patient had no identifiable assets in his name, save for the anticipated compensation for the loss of their father and sister in the 1998 bomb blast at the American Embassy in Kenya.
8. In the Judgment, Muchelule J, as he then was, issued an order stipulating that once the anticipated compensation is credited to the patient's bank account, the Respondent was required to promptly apply to the Court. This was to seek an order on the application and preservation of the funds. As of now, no financial accounts have been submitted for review, and no formal application was presented to the Court.
9. The Respondent has not told the Court what happened to the compensation or how the same was applied to the benefit of the patient.
10. Any order for removal or new appointment must prioritize the best interests, care, and protection of the person with the mental disorder.
11. The patient is still unable to manage his affairs due to his medical condition.
12. As the Applicant has now reached the age of majority, he asserts that he possesses the capacity and capability to enhance the living conditions of the patient, compared to the current circumstances, as per his assessment.
13. After evaluation of the patient's needs, I see no reason to deny the orders sought by the Applicant. The patient's son has demonstrated a willingness and ability to assume responsibility for his father's care, who has been under the care of the patient's brother (Respondent).
14. Under Section 31 (1) of the *Mental Health Act*, the Court may, on any sufficient grounds, remove any person appointed as manager or guardian and appoint any other person as it deems fit.
15. Under Section 31 (2) (b) of the Act, any manager removed by the Court may be called upon to deliver a schedule and account for the property of the mentally ill person to the new manager appointed by the Court.
16. Having regard to the provisions of the *Mental Health Act*, I make the following orders in the best interests of the patient/subject;
  - a. The application for review is allowed.
  - b. The order appointing NK as guardian of PIK and manager of his estate is set aside, and KWI is appointed as the new guardian and manager of his estate.



- c. NK shall file accounts with the Court within 3 months from the date of this order, detailing how he managed the compensation money and any other money in the patient's bank accounts;
- d. Commercial Bank of Africa shall provide the new guardian with copies of the bank statements and other financial documents as may be necessary relating to the patient's account upon 14 days of service of the order.
- e. The new guardian shall assume all responsibilities and powers previously conferred upon the former guardian, including but not limited to making decisions regarding the patient's healthcare and well-being and managing the patient's financial affairs.
- f. The matter will be mentioned after 90 days to confirm that the financial accounts will have been filed by NK and that the bank statements have been received by KWI. Additionally, the Court will evaluate the measures implemented by KWI to ensure that the patient's needs are being met.
- g. No order as to costs.

17. It is so ordered.

**DATED, DELIVERED AND SIGNED AT NAIROBI THROUGH THE MICROSOFT TEAMS ONLINE PLATFORM ON THIS 16<sup>TH</sup> DAY OF DECEMBER, 2025.**

.....

**C. KENDAGOR**

**JUDGE**

In the presence of:

Court Assistant: Beryl

Parties absent

